

EXHIBIT A

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1 said that's not significant racial bloc voting.

2 Again, you can look at Dr. McDonald's own
 3 numbers and see if what he estimates, and he estimates
 4 about 36 to 39 percent crossover in the Town, meaning 36
 5 to 39 percent of Whites vote for the Latino preferred
 6 candidate, and in state and county elections about 43.5
 7 percent vote for the Latino preferred candidate.

8 That is huge White support which means two
 9 things:

10 A. There is not this kind of legally significant
 11 racial bloc voting, but also the chances of a Latino
 12 preferred candidate winning in 2019 are very high, just
 13 like they are winning at the County level.

14 So we will point out that Dr. McDonald
 15 understates the degree of White support for non-Latino
 16 preferred candidates by about 6 percent.

17 We will introduce testimony from Dr. John Alford
 18 of Rice --

19 THE COURT: You have to slow down. I can't keep
 20 up with you.

21 MR. CARVIN: I apologize.

22 We will be introducing testimony from Dr. John
 23 Alford at Rice University. He's written voluminous voting
 24 rights articles and he's testified in about 20 voting
 25 rights cases.

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1 people who turn up at the polls, not who are in precincts
 2 and don't turn up.

3 When you correct for the two errors as
 4 Dr. Alford does, you see that the White crossover, the
 5 White support for Latino candidates, is about 42 to 45
 6 percent in the Town elections and about 47 to 50 percent
 7 in the non-Town elections.

8 The second reason that Latinos have an excellent
 9 chance to win, not only in 2019, but especially in 2021
 10 and 2023, if this system is not abandoned foolishly, is
 11 because Latino turnout is literally exploding in Islip.

12 This is again from their own expert,
 13 Dr. Beveridge, as well as supplemented by our expert,
 14 Dr. Thernstrom, who I'll explain in a minute.

15 Under their census, undisputed census numbers,
 16 in 2000, the citizen voting age population percentage of
 17 Latinos was 12.85 percent. Dr. Beveridge estimates
 18 between 2005 and 2009. It increased to about 15 percent.

19 What is the Latino share of the citizen voting
 20 age population above 18 today? In 2017, it's 25.9
 21 percent. You have gone from less than 13 percent to 26
 22 percent. The Latino population has doubled in the last
 23 ten or so years.

24 Well, obviously, even if their turnout remained
 25 slightly below White voters, because their presence in the

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Mr. Carvin - Opening

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1 He will point out that Dr. McDonald made two
 2 mistakes in estimating non-Latino support for Latino
 3 candidates in the real world.

4 First, he didn't factor in Black voter support
 5 for the Latino candidates.

6 And it will probably come as no surprise that
 7 Blacks in Islip are even more Democratically supportive
 8 than Latinos in Islip. Any Democratically supported
 9 Latino candidate gets greater support from the Black
 10 community, and you will combine that with the White
 11 support to have a non-Latino support number.

12 Dr. McDonald didn't analyze that. He analyzed
 13 it separately.

14 The other problem, and this is more technical,
 15 that Dr. McDonald made was there are differences in
 16 turnout between Latinos and Whites.

17 Let's assume you have a precinct which you say
 18 is 60 percent Latino in terms of citizen voting age
 19 population, what we call CVAP.

20 Dr. McDonald analyzed Latino voting preferences
 21 without accounting for the fact even though there is 60
 22 percent of the precinct, given the turnout differences
 23 they may only be 30 percent of the voters.

24 And that's a fundamental error when you are
 25 analyzing voter preferences. You should obviously look at

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Mr. Carvin - Opening

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1 community is exploding and doubling, they will be a much
 2 larger part of the electoral rate than in the old
 3 elections that Dr. McDonald looked at.

4 And even if 2019 is not the turning point for
 5 them to win the at-large elections, it's quite clear it's
 6 going to happen in 2021 or 2023, and why is that?

7 Because, again, using their own numbers from
 8 their own Dr. Beveridge, if you look at the Latino
 9 population under 18, those who are about to become voters,
 10 the citizens are, 39 percent of those people are Latino
 11 and only 46.5 percent of them are White.

12 In other words, they are basically evenly
 13 matched at this point. As they turn 18, as they become
 14 part of the voting population, the Latino share of the
 15 electorate just by that fact alone will dramatically
 16 increase and whatever these close losses they have had in
 17 recent years will turn into clear victories.

18 I think that's the ultimate perversity of what
 19 the plaintiffs themselves are asking for. They are in the
 20 cusp of being able to win at-large elections.

21 Well, if you can win at-large elections, that
 22 means you can get three or four people on the Town Board.
 23 There's four members on the Town Board and one Supervisor
 24 who votes with the Town Board. If they are all elected
 25 at-large, you can win at-large elections, then you can

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1 A. Yes, I did.
 2 Q. Did you hear Mr. Carvin's statement?
 3 A. Yes, I did.
 4 Q. Were you listening to his opening statement?
 5 A. Yes, I was.
 6 Q. I'd like to please display page 44 of the hearing
 7 transcript from April 9th.
 8 Do you see that?
 9 A. Yes.
 10 Q. I'm going to read you a statement and ask you some
 11 questions about it.
 12 For the record, this is from Mr. Carvin's
 13 opening statement.
 14 A. Okay.
 15 Q. I'm going to read lines 19 through 23:
 16 A. What is the --
 17 Q. I'll read it.
 18 A. Okay.
 19 Q. What is the Latino share of the citizen voting age
 20 population above 18 today? In 2017, it's 25.9 percent.
 21 You have gone from less than 13 percent to 26 percent.
 22 The Latino population has doubled in the last ten years or
 23 so.
 24 Do you recall hearing him say that?
 25 A. Yes, I do.

1 As they turn 18, as they become part of the
 2 voting population, the Latino share of the electorate just
 3 by that fact alone will dramatically increase.
 4 Do you recall hearing him say that?
 5 A. Yes, I do.
 6 Q. Do you have an opinion about the accuracy of this
 7 statement?
 8 A. Well, once again, I think it's quite misleading.
 9 Q. How so?
 10 A. Well, if you look at the data that's in my report,
 11 you will see that actually all along, from 2000 onward to
 12 the one in 2017 ACS, that the fraction of the under 18
 13 citizen age population that's Latino is higher than the
 14 fraction of the citizen voting age population.
 15 So it's higher by roughly the same proportion.
 16 I think that this is simply the -- part of what's driving
 17 the ongoing 1 percent a year -- or less than 1 percent a
 18 year increase. So I don't really see this as like some
 19 dramatic new finding for 2017, and it sort of implies
 20 that.
 21 Q. Now, Dr. Beveridge, is it possible today to predict
 22 how great or how vast the Latino CVAP will increase in the
 23 next five years, in the next six years, in the next ten
 24 years, is it possible?
 25 MR. FISHER: Objection.

1 Q. Is that accurate?
 2 A. I found it misleading.
 3 Q. Why was it misleading?
 4 A. First off, if you take -- it's actually -- it's
 5 not -- the ten years or so period, it's actually a 17-year
 6 period because the 13 percent that he's referring to, I
 7 believe, is the 12.85 percent which was in the 20 -- the
 8 2000 census long form.
 9 And so you go from 13 percent to 26 percent in
 10 17 years, and that really is very consistent with the
 11 population change that we saw between the 2005-09 ACS and
 12 the 2013 to 2017 ACS which is something to say something
 13 well under 1 percent a year.
 14 Q. So just so we are clear, the Latino population has
 15 not doubled in that period of time.
 16 It's increasing by 1 percent a year, correct?
 17 A. Or less than 1 percent.
 18 Q. Less than 1 percent.
 19 I'd like to display page 45 of the transcript of
 20 the hearing from April 9th.
 21 (The above-mentioned exhibit was published to
 22 the Court.)
 23 BY MR. MCLAUGHLIN:
 24 Q. I'd like to turn our attention to lines 13 through
 25 16, I'll read it to you, Dr. Beveridge:

1 THE COURT: Overruled.
 2 BY MR. MCLAUGHLIN:
 3 Q. Is it?
 4 A. People do do the projections, but they are all based
 5 on certain assumptions.
 6 So you can't be certain about any such
 7 projections, but people do do projections but you can't
 8 say that this is a certainty.
 9 Q. Would it be a fair statement that predicting the rate
 10 of increase in the future of the Latino CVAP is sheer
 11 speculation?
 12 MR. FISHER: Objection.
 13 THE COURT: Sustained.
 14 MR. MCLAUGHLIN: I'll move on.
 15 BY MR. MCLAUGHLIN:
 16 Q. Turning your attention again to page 44, continuing
 17 on to 45, I'd like to start with line 25:
 18 Because their presence in the community is
 19 exploding and doubling, they will be a much larger part of
 20 the electoral rate than in the old -- I'll stop there.
 21 Did you hear him make that statement?
 22 A. Yes.
 23 Q. And is it accurate that the Latino population is
 24 exploding and doubling?
 25 A. No. As we have seen it's growing somewhat under 1

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1 Q. Do you remember what Mark Twain said about
 2 statistics?

3 A. Yeah, I do.

4 I don't like it since I am one.

5 Q. What did he say?

6 A. They're lies, damn lies and statistics.

7 Q. Now, with respect to citizen voting age population,
 8 again sticking with Defense Exhibit C, was it possible for
 9 you to compute into those numbers the margin of error?

10 A. No, because as I testified, the tables are broken
 11 down so much they have, like, native born and they have --
 12 they have male and female, male native born, female native
 13 born.

14 They have male naturalized, female naturalized
 15 and the way the census does it, they give margins of error
 16 to each of those groups. There is a way to compute this
 17 but it would require a lot more time than I had, you know,
 18 during the lunch break.

19 Q. And this Defense Exhibit C you just saw this exhibit
 20 for the first time this morning, isn't that right?

21 A. That's correct.

22 Q. And this Defense Exhibit C was produced to us, or
 23 you, through the defendants.

24 Correct?

25 A. I --

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1 Q. The exhibit we are referring to, Defense Exhibit C,
 2 was provided to you through counsel from the defendants.

3 Is that right?

4 A. That's correct, yes.

5 Q. Let's look at citizen voting age population with the
 6 understanding that there isn't a margin of error
 7 calculation.

8 But let's look at 2016 and 2017. Are you with
 9 me?

10 A. Right. Yeah, that's over on the left bottom, right?

11 Q. Yes, sir.

12 A. Okay.

13 Q. I see that the percentage of Latino citizen voting
 14 age population is 22.95 percent, or was, in 2016.

15 Do you see that?

16 A. Correct.

17 Q. I see that the population citizen voting age of
 18 Latinos in 2017 is 25.91 percent.

19 Do you see that?

20 A. Yes.

21 Q. How much of a growth in percentages is that?

22 A. That's a difference of about I would say 3 percent.

23 Q. 3 percent in one year, is that right?

24 A. Yes.

25 Q. Would you call that an explosive growth?

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1 the end of paragraph 51.

2 BY MR. MCLAUGHLIN:

3 Q. I'm going to read you the final sentence that he read
 4 you:

5 Given these trends, it is reasonable to expect
 6 that Islip's Latino CVAP proportion has continued to
 7 increase since the 2013-2017 five-year ACS, and the
 8 2017 one-year ACS and will continue to do so.

9 What did you mean by that?

10 A. Well, I mean the -- you know, we discussed that this
 11 morning.

12 I think there is an upward trend for Latinos
 13 over time. It's very well documented. The three points
 14 we have that are based on larger samples which would be
 15 2000 and then the 2005-09 and the 2013-17 ACS all show a
 16 growth.

17 It's just the quote-unquote explosive growth or
 18 the quote-unquote very rapid growth is not necessarily
 19 supported by year to year numbers.

20 Q. Mr. Fisher also asked you questions regarding the
 21 percentage increase of the Latino CVAP in the Town over
 22 time.

23 Do you recall those questions?

24 A. Yes, I do.

25 Q. Can you predict what the degree of increase will be?

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1 A. Not without making lots of assumptions which may turn
 2 out to be -- prove to not be true when you get to that
 3 year.

4 Q. Now, with respect to the Latino population under 18,
 5 citizens under 18, he also asked you a series of questions
 6 about that, that the numbers are going to grow again.

7 Is that a fair statement?

8 A. Yes, he did.

9 Q. Does that statement include any assumptions about the
 10 Latino citizens under 18?

11 A. I think it does, yes.

12 Q. What assumptions could that statement include?

13 A. It would have to assume that the proportion of
 14 Latinos under 18 has increased as a proportion of all
 15 Latinos, all Latino citizens in Islip.

16 Just looking quickly at the data that we have it
 17 doesn't look like that's really true.

18 Q. Would that assumption also include that a notion that
 19 all of these Latinos who were under 18 are going to stay
 20 here when they become 18?

21 MR. FISHER: Objection.

22 THE COURT: Sustained.

23 BY MR. MCLAUGHLIN:

24 Q. What other assumptions do you believe are included in
 25 the statement or the question of Mr. Fisher that the

1 A. Well, I think as I testified earlier today, the two
 2 things I was looking at was election districts because
 3 those people do vote -- they have a common ballot they
 4 vote on.

5 And then I looked at CDPs because those are
 6 areas that people associate with certain parts of Islip.

7 Q. Now, would you agree with me that the Brentwood
 8 community is a community of interest?

9 A. I think so, yes.

10 Q. And would you agree with me that the North Bay Shore
 11 community is a community of interest?

12 A. Yes.

13 Q. And you included Brentwood in your district one,
 14 isn't that right?

15 A. That's correct.

16 Q. He also asked you about school districts, didn't he?

17 A. That's correct.

18 Q. Why didn't you include school districts in your
 19 community of interest calculations?

20 A. For a variety of reasons, one of which is they are
 21 fairly large but another reason which is fairly important
 22 is that the school districts, several of the school
 23 districts in Islip kind of overlap the border of Islip.

24 Part of them are in Islip, part of them are out
 25 of Islip, and so, you know, there wouldn't -- those

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1 Latino proportion of citizen voting age will continue to
 2 increase as the 18 -- as those under 18 hit 18?

3 A. Well, I think that, you know, it's probably a
 4 reasonable assumption to assume continued growth of
 5 Latinos.

6 But the real issue here is how rapid, you
 7 know -- is the growth accelerating and I don't think the
 8 data -- I don't think there is data that supports that the
 9 growth of Latinos is accelerating -- you could argue a
 10 little bit -- when you talk about like the rapid growth of
 11 Latinos in Islip you are talking about starting from a
 12 pretty small base of Latinos.

13 So it's not surprising that there was quite
 14 rapid growth when you start out with a slow base -- a
 15 small base, but it's also possible that the Latino growth
 16 will plateau.

17 Q. Mr. Fisher also asked you questions about a term
 18 "communities of interest."

19 Do you remember that?

20 A. Yes.

21 Q. What are "communities of interest?"

22 A. They are groupings that might have common --
 23 something in common.

24 Q. In creating your plans, did you give any
 25 consideration at all to communities of interest?

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1 communities of interest would -- they are kind of like
 2 different than Islip. That would be another -- that was a
 3 main reason, actually.

4 Q. And you know that the school districts are not
 5 controlled by the Town Board of Islip, isn't that right?

6 A. That's correct, yes.

7 Q. He asked you a number of questions about what the
 8 lawyers asked you to do.

9 Do you remember those questions?

10 A. Yes.

11 Q. Did we tell you how to draw your map?

12 A. They did, in fact, say start with Brentwood, but, I
 13 mean, truth of the matter is if you are -- it's really the
 14 way Brentwood is, it's the northwest corner -- it now goes
 15 all the way to the northwest corner of Islip and it would
 16 be a logical place to start any redistricting plan, to
 17 start on the northwest corner.

18 Q. So let me ask you a question.

19 If you hadn't gotten that instruction and you
 20 had to draw a plan that would include one majority Latino
 21 district, how would you have gone about that?

22 MR. FISHER: Objection.

23 THE COURT: Sustained.

24 BY MR. MCLAUGHLIN:

25 Q. You were asked a number of questions about whether

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1 A. -- that we are talking about -- not the 14
2 candidates, we are talking about nine election outcomes.
3 Q. All right.
4 Can you do that percentage for me?
5 A. The non-Hispanic White?
6 Q. Yes.
7 A. Won eight of the nine.
8 Q. And what would that percentage be, then?
9 A. 89 percent.
10 Q. And can just to refresh my recollection of what that
11 same result would be, same percentage for the Latino
12 preferred candidates of choice at the -- from that -- in
13 that same year or years?
14 A. Two of nine or 22 percent.
15 Q. Looking at Table IX, how many of the vote for one --
16 in the vote for one Town elections and how many of those
17 elections from '07 to '15, how many were the Latino
18 voters' candidate of choice?
19 A. In the vote for one elections, two of nine, or 22
20 percent.
21 Q. And turning that same analysis to the Town-wide
22 elections, how many from '07 to '15, how many were the
23 non-Hispanic White voters' candidates of choice?
24 A. Eight of nine, or 89 percent.
25 Q. Comparing those percentages, do you have an opinion

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1 A. 100 percent.
2 Q. Let me read that again. I'm not sure you understood
3 my question. Maybe I misspoke. Let's try it again.
4 A. All right.
5 Q. If you exclude the 2006 and 2007 elections, in what
6 percentage of the Town Board elections did Latinos elect a
7 candidate of their choice?
8 A. Zero percent.
9 Q. Has a Latino ever been elected to Town office, any
10 office?
11 A. Not by a Latino surname that I have seen.
12 Q. Did any of the questions and issues that Mr. Carvin
13 raised with you, either Thursday or today, have any impact
14 on your conclusions that you have stated previously in
15 this case?
16 A. No, they didn't.
17 Q. With respect to the 2019 election, you said that in
18 response to some questions by Mr. Carvin, that what
19 happens in 2019 depends on a number of factors or there
20 are lots of moving parts.
21 Do you remember that?
22 A. Yes.
23 Q. What did you mean by that?
24 A. I mean it depends on the size of the groups, which
25 will be reasonably stable but not perfectly.

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McDonald - Redirect/McLaughlin

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1 as to whether or not in these vote for one Town elections
2 Latino voters have an equal opportunity to elect their
3 candidates of choice?
4 A. The evidence strongly suggests they do not have an
5 equal opportunity.
6 89 to 22 percent chance non-Hispanic White to
7 Latino in the Town Council elections, 93 to 14 percent, in
8 neither set of Town elections is there an equal
9 opportunity to elect a candidate of choice.
10 Q. Now --
11 A. -- it's not close.
12 Q. You recall that Mr. Carvin suggested that in '06 and
13 '07, those elections were affected by unusual or special
14 circumstances.
15 Is that right?
16 A. That's right.
17 Q. If you were to exclude the '06 and '07 elections on
18 Table IX, in what percentage of vote for one Town Board
19 elections did Latinos elect a candidate of choice?
20 A. Zero.
21 Q. Zero?
22 A. Zero, zero.
23 Q. If you exclude the 2006 and 2007 elections, in what
24 percentage of the Town Board elections did Latinos elect a
25 candidate of their choice?

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1 It depends on the turnout among non-Hispanic
2 Whites and Latinos, and to some extent non-Hispanic
3 Blacks, and it depends on the level of support for -- from
4 each of those three racial/ethnic groups, it depends on
5 the level of energy that's put behind the candidacies in
6 the two major parties and maybe to some extent the minor
7 parties.
8 And those are lots of moving parts.
9 Q. Do you have any reason to believe, reality-based
10 reasons, that Latino turnout will increase in the Town
11 Board election in 2019?
12 A. No, I -- no.
13 Q. Mr. Carvin also asked you a number of questions about
14 the gap between turnout in 2014 at the state election
15 levels and the turnout in the -- withdrawn.
16 Mr. Carvin also asked you a number of questions
17 regarding the gap between White turnout and Latino turnout
18 in the state races and the Town Board races.
19 Do you recall those questions?
20 A. Yes.
21 Q. What, if anything, does the differential in the gap
22 between White turnout and Latino turnout in exogenous
23 races tell you, if anything, about the Town Board
24 elections?
25 A. The gap in these other elections doesn't inform me

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